

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GURDEEP BOPARAI,

Plaintiff,

v.

THE KROGER COMPANY et al.,

Defendants.

CASE NO. 2:24-cv-02045-JNW

ORDER TO SHOW CAUSE

Pro se Plaintiff Gurdeep Boparai pursues this action against Defendant The Kroger Company (Kroger) and two of its agents in forma pauperis (IFP). Dkt. No. 3. When a plaintiff proceeds in forma pauperis, the court must dismiss the action if the court determines the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). When reviewing complaints under § 1915(e)(2)(B), courts necessarily consider *only* the operative complaint. *See Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011) (holding that an amended complaint supersedes the original and renders the original of no legal effect).

1 Under the Federal Rules of Civil Procedure, “[p]leadings must be construed  
2 so as to do justice.” Fed. R. Civ. P. 8(e). Thus, a “document filed pro se is to be  
3 liberally construed and a pro se complaint, however inartfully pleaded, must be held  
4 to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v.*  
5 *Pardus*, 551 U.S. 89, 94 (2007) (citations omitted). Courts are not to “dismiss a pro  
6 se complaint without leave to amend unless ‘it is absolutely clear that the  
7 deficiencies of the complaint could not be cured by amendment.’” *Rosati v. Igbinoso*,  
8 791 F.3d 1037, 1039 (9th Cir. 2015) (citing *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th  
9 Cir. 2012) (quoting *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir.1988) (per  
10 curiam))). But even so, the duties imposed on the Court by § 1915(e) are  
11 unwavering, and when an IFP plaintiff fails to state a claim on which relief may be  
12 granted, the action must be dismissed. Likewise, the Federal Rules require a  
13 complaint to offer: (1) a short and plain statement of the grounds for the court's  
14 jurisdiction; (2) a short and plain statement of the claim showing that the pleader is  
15 entitled to relief; and (3) a demand for the relief sought. Fed. R. Civ. P. 8.

16 Boparai asserts that his employer, Kroger, and its agents defamed him and  
17 discriminated against him on the basis of disability and race. *See* Dkt. No. 4 at 5.  
18 Boparai does not recall the surnames of the two Kroger agents but provides their  
19 first names—Linda and Holy—as well as their positions within the company. The  
20 complaint, however, does not specify Boparai’s causes of action, nor does it state  
21 whether his claims are based on federal or state law. *See id.* As Boparai does not  
22 allege federal question jurisdiction, *see id.* at 3, the Court assumes that his potential  
23 claims arise under Washington law. But ultimately, having read through the

1 factual allegations, *see id.* at 5–7, the Court struggles to understand the basis of  
2 Boparai’s claims.

3 Additionally, while Boparai alleges that this Court has subject-matter  
4 jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction), the complaint’s factual  
5 allegations defeat diversity jurisdiction. Diversity jurisdiction exists when the  
6 matter in controversy exceeds \$75,000 and is between citizens of different states. 28  
7 U.S.C. § 1332(a). Here, Boparai alleges that he, Linda, and Holy are each  
8 Washington residents who live and work in Washington. Thus, diversity jurisdiction  
9 doesn’t apply.

10 The Court finds that the operative complaint, Dkt. No. 4, fails to state a claim  
11 upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B).

12 Accordingly, the Court ORDERS:

- 13 • Boparai may file an amended complaint that states a claim on which  
14 relief may be granted by January 31, 2025. Failure to do so by the  
15 deadline will result in dismissal of this action under  
16 28 U.S.C. § 1915(e)(2)(B), without prejudice.
- 17 • If filed, the amended complaint will serve as a complete substitute for  
18 the current complaint. Thus, any amended complaint must not  
19 incorporate the original complaint by reference. Any amended  
20 complaint must clearly identify the legal claims and the facts that  
21 support each claim.

1 Dated this 27th day of December, 2024.

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3 Jamal N. Whitehead  
4 United States District Judge  
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